

# CAPITOL HILL UPDATE

REP. JIM GERLACH (PA-06)

Friday, July 15, 2005

[www.gerlach.house.gov](http://www.gerlach.house.gov)

**ECONOMY: 25 months of job growth .... DEFICIT: FY '05 federal budget deficit lowered by nearly \$100 billion**

## Gerlach Votes To Protect Small Businesses



### London: Latest Global Terror Victim

Congressman Gerlach joined the House in adopting H. Res. 356 on Thursday, a resolution condemning in the strongest terms the terrorist attacks in London, England, on July 7, 2005.

“Our thoughts and prayers are with our friends and allies in London. These disgusting attacks on innocent people are further proof of just how far terrorist groups will go to advance their extremist agendas. We need to support our friends in their hour of need, just as they supported us in the aftermath of the Sept. 11 attacks on the United States.” -- Jim Gerlach

### Revised Deficit Numbers Sign of Strong Economy

Congressman Gerlach welcomed the news from the Office of Management and Budget [OMB] that the federal budget deficit had decreased by almost \$100 billion from previous estimates. The revised figure of \$333 billion was presented during the OMB's mid-season review released on Wednesday.

“From the tax relief enacted in 2001 and 2003 to the numerous economic programs and incentives put in place by this Congress, we've made considerable progress toward righting an economy that was decimated by the September 11 terrorist attacks,” Rep. Gerlach said. “Through strong leadership and bold decision making, I am

confident we will see our nation's economy continue to improve in the month's ahead.

In addition to the great news about the deficit, the economy continues to add new jobs to the payroll every month. Almost 3.5 million jobs have been added to the economy in the last 14 quarters, marking 25 straight months of positive job growth.

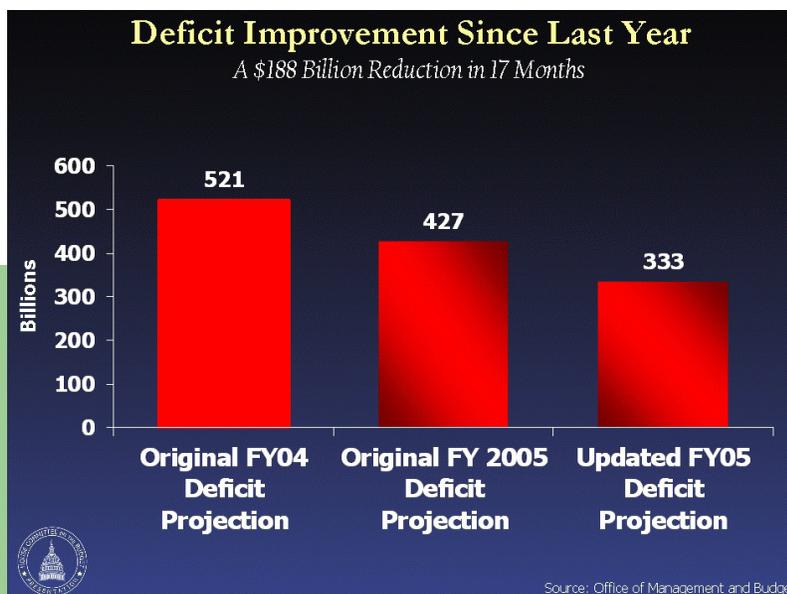
**Washington** -- Rep. Jim Gerlach supported legislation this week aimed at strengthening the backbone of the American economy: small businesses. These reform bills, which passed the House last year and sailed through again today, seek to improve worker safety by making it easier for employers to work voluntarily and proactively with the federal Occupational Safety and Health Administration (OSHA) to ensure safe and secure workplaces.

“I was happy to support this legislation last year, and glad to see it brought up and passed again today,” Rep. Gerlach said. “Our employers today face numerous challenges and stiff competition from businesses all over the world. These reforms protect employers, particularly our many small businesses, by giving them new avenues and tools to address OSHA complaints they feel have been unfairly brought about.”

**The four bills are as follows:**

- *Allowing Small Businesses to Have their Day in Court.* The Occupational Safety and Health Small Business Day in Court Act (H.R. 739) gives the Occupational Safety and Health Review Commission (OSHRC) additional flexibility to make exceptions to the arbitrary 15-day deadline for employers to file responses to OSHA citations when a small business misses the deadline by mistake or for good reason. Under current legal interpretation, employers who fail to meet this 15-day deadline may lose their right to a day in court, regardless of whether there were intervening circumstances that inadvertently caused an employer to miss the deadline. The bill restores some common-sense and flexibility to the law. This legislation passed the House by a 256 to 163 vote on Tuesday. On May 18, 2004, the House passed the bill by a vote of 251-177.

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“National unemployment is at its lowest levels in years, consumer confidence is high and faith in the tax cuts and economic decisions made in the last three years seems to be paying off,” Rep. Gerlach said. “Our nation is on the right track, for sure, but there is still work to be done.”

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## *Lunch with the Ardmore Rotary Club*

**Narberth** -- Congressman Gerlach spoke recently to the members of the Ardmore Rotary Club about current legislative issues in Washington.

Following the organization's brief lunch, Congressman Gerlach discussed the need for a national



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energy policy, the possibility of addressing Social Security by resolving the successful program's long-term solvency issues as well as important District specific topics like transportation initiatives and managing growth and development.

## *Gerlach Votes To Protect Small Businesses*

- *Ensuring a Timely Review of Backlogged Cases.* The Occupational Safety and Health Review Commission Efficiency Act (H.R. 740) increases the membership of OSHRC from three to five members to ensure cases are reviewed in a timely fashion. Because a quorum of two (of the three) commissioners is needed for decision-making, OSHRC has in the past been unable to act. The appointment process is sometimes controversial, leading to vacancies, and sometimes Commissioners must recuse themselves from consideration of cases, meaning a situation is created where even if there is one seat open, there is no working quorum. Increasing membership to five Commissioners will help ensure that cases are reviewed in a more timely fashion. The House passed this legislation Tuesday by a 234 to 185 vote. On May 18, 2004, the House passed the bill by a vote of 228-199.

pendent Review of OSHA Citations Act (H.R. 741) restores independent review of OSHA citations by clarifying that OSHRC is an independent judicial entity given deference by courts that review OSHA issues. Congress passed the OSHA law only after being assured that judicial review would be conducted by "an autonomous, independent commission which, without regard to the Secretary, can find for or against him on the basis of individual complaints." The bill restores the original system of checks and balances intended by Congress when it enacted the OSHA law and ensures that OSHRC ("the Court"), and not OSHA ("the prosecutor"), would be the party who interprets the law and provides an independent review of OSHA citations. The bill passed the House by a 226 to 187 vote Tuesday. On May 18, 2004, the House passed the bill by a vote of 224-204.

- *Establishing Independent Review of OSHA Citations.* The Occupational Safety and Health Inde-

- *Allowing Small Employers to Recover Attorneys' Fees.* The Occupational Safety and Health Small Employer Access to Justice Act (H.R.

742) levels the playing field for small businesses and encourages OSHA to better assess the merits of a case before it brings unnecessary enforcement actions to court against small businesses. Under current law, the Equal Access to Justice Act (EAJA) allows small business owners to recover attorneys' fees if the owner successfully challenges a citation. However, if OSHA can establish that its enforcement action was "substantially justified" or the result of "special circumstances," small businesses can be refused attorneys' fees even if OSHA loses the case in court. Historically, the law's "substantially justified" and "special circumstances" standards have made it easy for OSHA to prevent recovery under this broad standard, so attempts by small business owners to recover costs often exacerbate the financial harm caused by OSHA's dubious enforcement actions. The bill passed the House on Tuesday by a 235 to 187 vote. On May 18, 2004, the House passed the bill by a vote of 233-194.